

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Highland Cellular, Inc.)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the Commonwealth of Virginia)	
)	

To: Wireline Competition Bureau

**Supplement to Petition for Designation as an Eligible
Telecommunications Carrier**

Highland Cellular, Inc. (“Highland”), by counsel, hereby supplements its Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the Commonwealth of Virginia (“Petition”)¹. Specifically, in response to a recent inquiry from Wireline Competition Bureau staff, Highland provides information regarding the non-rural incumbent local exchange carrier (“ILEC”) wire center that is only partially covered by the requested ETC service area described in the Petition, as amended.

I. Background

¹ See Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia, CC Docket No. 96-45, Sept. 19, 2002.

Highland has requested designation as an ETC throughout its FCC-licensed area in Virginia, which includes areas served by both rural and non-rural ILECs.² For areas served by rural ILECs, an ETC's "service area" is defined as the ILEC's study area "unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area." 47 U.S.C. § 214(e)(5). Accordingly, for those rural ILECs whose study areas are only partially covered by Highland's licensed service territory, Highland requested redefinition of the affected ILECs' service areas so that each wire center constitutes a separate service area.³ To aid the FCC in its redefinition analysis, Highland provided a list of affected wire centers with notations indicating whether each wire center is fully or partially covered by the proposed ETC service area.

Recently, WCB staff asked Highland to specify which *non-rural* ILEC wire centers are only partially covered by its requested ETC service area. Staff explained that this inquiry was necessary to permit the WCB to determine whether there was a possibility of "cream skimming" within those non-rural ILEC wire centers.

II. Discussion

Highland's proposed ETC service area includes portions of one non-rural ILEC wire center that is partially contained within the requested area. This partially-covered wire center is listed in the table below:

² See Petition at pp. 10-11. A map of the requested ETC service area was provided as Exhibit C to the Petition.

³ See Petition at pp. 10-13; Amendment to Petition for Designation as an Eligible

Local Exchange Carrier	Wire Center Code	Locality Name
Verizon Virginia, Inc. (formerly Bell Atlantic)	HNKRVAXA	Honaker

Telecommunications Carrier (filed Oct. 23, 2002) at pp. 1-2.

The extent to which the Honaker wire center is covered by Highland’s proposed ETC service area is evident from the Petition as originally filed. Specifically, the Petition states that “Highland Cellular requests ETC designation for its entire licensed service area in Virginia, which is the boundary for the Channel Block A2 portion of the Virginia-2 RSA A map of Highland Cellular’s proposed ETC service area is attached hereto as Exhibit C.”⁴ The map attached as Exhibit C to the Petition shows Highland’s licensed Virginia service area, superimposed onto the wire centers of all of the affected ILECs. Because the map makes clear which wire centers are only partially covered, Highland has been advised by staff that no amendment to the Petition is necessary.

The fact that Highland proposes to be designated in a portion of a non-rural ILEC wire center does not trigger “cream skimming” or any other additional issues for review under the Act or the FCC’s rules. For areas served by non-rural ILECs, a competitive ETC may be designated for an ETC service area smaller than the entire study area without the need for service area redefinition.⁵ Accordingly, there is no basis under the Act for engaging in redefinition – with the attendant analysis of “cream skimming”, administrative burdens, and the special status of rural ILECs – with

⁴ Petition at p. 9.

⁵ See 47 U.S.C. § 214(e)(5). See also *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket No. 96-45, DA 02-3181 (WCB rel. Nov. 27, 2002) at ¶ 33 n.115, citing *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8879-80 (1997).

respect to the non-rural ILEC wire center listed above.

To the extent the Bureau has included “cream skimming” within the Section 214(e)(6) “public interest” analysis for areas served by *rural* ILECs, Highland notes that the Act does not impose a “public interest” requirement with respect to areas served by *non-rural* ILECs. Under prevailing law and precedent, the FCC “shall” designate an ETC in areas served by non-rural ILECs, so long as it satisfies the requirement to offer and advertise the supported services under Section 214(e)(1).⁶ As the FCC has consistently ruled, the designation of an additional carrier that satisfies the requirements of Section 214(e)(1) “is consistent *per se* with the public interest” in areas served by non-rural ILECs.⁷ Thus, even if “cream skimming” is included within the “public interest” analysis applicable to areas served by rural ILECs, such analysis does not apply to non-rural ILECs such as Verizon Virginia, Inc.

In sum, neither the Act nor the FCC’s rules provide a basis for conducting a “cream skimming” analysis or other layer of review in non-rural ILEC areas.⁸

⁶ See 47 U.S.C. § 214(e)(6). See also *RCC Holdings, supra*, at ¶¶ 5, 11; *Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, DA 02-2855 (WCB rel. Oct. 31, 2002) (“*Corr Wireless*”) at ¶ 12.

⁷ *Farmers Cellular Telephone, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, DA 03-754 (WCB rel. Mar. 12, 2003) at ¶ 12; *Corr Wireless, supra*, at ¶ 12; *Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier*, 16 FCC Rcd 39, 45 (2000).

⁸ As a practical matter, Highland notes that the likelihood of “cream skimming” within the Honaker wire center would be negligible given the small amount of support Highland will receive for that area. Highland will not receive any high-cost loop support for lines it serves in the Honaker wire center, nor will it receive any local switching support, long-term support or interstate common line support. According to the Universal Service Administrative Company’s projections for Fourth Quarter 2003, Highland’s monthly interstate access support for that wire center will be \$0.39 (multi-line businesses) and \$0.68 (residential and single-line business).

III. Conclusion

Highland hereby supplements its Petition as set forth herein.

Respectfully submitted,

Highland Cellular, Inc.

By _____/s/_____
David A. LaFuria
Steven M. Chernoff
Its Attorneys

Lukas, Nace, Gutierrez & Sachs, Chartered
1111 Nineteenth Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500

September 5, 2003

CERTIFICATE OF SERVICE

I, Janelle Wood, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 5th day of September, 2003, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing *Supplement to Petition For Designation as an Eligible Telecommunications Carrier* filed today to the following:

Elmer E. Halterman
General Manager
Highland Telephone Cooperative
P.O. Box 340 Monterey, Virginia 24465

K. L. Chapman, Jr.
President
New Hope Telephone Company
P. O. Box 38
New Hope, Virginia 24469

C. Douglas Wine
Manager
North River Telephone Cooperative
P. O. Box 236
Mt. Crawford, Virginia 22841-0236

Mr. L. Ronald Smith
President
Mountain Grove-Williamsville Telephone Company
P.O. Box 105
Williamsville, Virginia 24487

Steven H. Goodman
NTELOS, Inc.
401 Spring Lane
Waynesboro, Virginia 22980

Christopher E. French
President
Shenandoah Telephone Company
P. O. Box 459
Edinburg, Virginia 22824

Thomas W. Sokol
State Executive-Virginia
Central Telephone Company
1108 East Main Street, Suite 1200
Richmond, Virginia 23219

Lydia R. Pulley
Vice President and General Counsel
Verizon South Inc.
600 East Main Street, 11th Floor
Richmond, Virginia 23219

Robert W. Woltz
President
Verizon Virginia Inc.
P.O. Box 27241
600 East Main Street
Richmond, Virginia 23261

William Irby
Director, Communications Division
Virginia Corporation Commission
P.O. Box 1197
Richmond, Virginia 23218

Kathleen A. Cummings
Deputy Director, Communications Division
Virginia Corporation Commission
P.O. Box 1197
Richmond, Virginia 23218

Sheree King
Virginia Corporation Commission
P.O. Box 1197
Richmond, Virginia 23218

*Paul Garnett
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.E.
Washington, D.C. 20054

*Thomas Buckley
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.E.
Washington, D.C. 20054

_____/s/____

Janelle T. Wood